

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

COMMODITY FUTURES TRADING COMMISSION,

Plaintiff,

-against-

EDDY ALEXANDRE and
EMINIFX, INC.,

Defendants.

22 Civ. 3822 (VEC)

**NOTICE OF THE RECEIVER’S MOTION FOR ENTRY OF AN ORDER
APPROVING (I) THE RECEIVER’S DISTRIBUTION PLAN; (II) THE
DETERMINATION OF ALLOWED USER CLAIMS; (III) NOTICE OF
DISTRIBUTION PLAN; AND (IV) AUTHORITY TO PURSUE CAUSES OF ACTION**

PLEASE TAKE NOTICE that David A. Castleman, as Receiver (the “**Receiver**”), will move before the Honorable Valerie E. Caproni, United States District Judge for the United States District Court for the Southern District of New York (the “**Court**”), located at the Thurgood Marshall United States Courthouse, 40 Foley Square, New York, NY 10007 for entry of an Order Approving (i) the Receiver’s Distribution Plan; (ii) the Determination of Allowed User Claims; (iii) Notice of Distribution Plan; and (iv) Authority to Pursue Causes of Action (the “**Motion**”).¹

PLEASE TAKE FURTHER NOTICE that, pursuant to the Receiver’s Request for Approval of Schedule to File Plan of Distribution and Responses, So Ordered by the Court on July 17, 2024 [Dkt. 359], the following response deadlines for the Motion shall apply:

August 26, 2024 (“User Response Deadline”): The deadline by which all EminiFX Users’ and non-User claimants’ responses must be actually received by the Receiver. Users shall submit any responses via the User Portal. Any non-User claimant who wishes to respond may submit a response to the Receiver directly, via e-mail to [EminiFX@stretto.com], so long as it is received by the User

¹ Capitalized terms not otherwise defined herein shall have the meanings ascribed to them by the Motion.

Response Deadline, and the Receiver will include such response when filing the User Responses with the Court. **EminiFX Users who do not submit responses on the User Portal as instructed will have their responses disregarded and not included in the Receiver's subsequent submission to the Court.**

September 10, 2024: The deadline for the CFTC to file a response to the Plan of Distribution and Motion (the “**CFTC Response**”) and for Mr. Alexandre to mail his response to both the Court and the Receiver (the “**Alexandre Response**”). **The Alexandre Response must be mailed to the Receiver at David Castleman, c/o Otterbourg P.C., 230 Park Avenue, New York, NY 10169, with a postmark of September 10, 2024 or earlier.** The Receiver will organize and file with the Court the User Responses that were received prior to the User Response Deadline.

September 27, 2024: The deadline for the Receiver, the CFTC, or Mr. Alexandre to file any reply to the User Responses, the CFTC Response and/or the Alexandre Response. **Any Alexandre Reply must be mailed to the Receiver at David Castleman, c/o Otterbourg P.C., 230 Park Avenue, New York, NY 10169, with a postmark of September 27, 2024 or earlier.**

PLEASE TAKE FURTHER NOTICE that with respect to non-parties, unless such non-party has made a motion to intervene, and that motion has been granted by the Court, **non-parties should not send any inquiries concerning the Motion directly to the Court or file them on the docket.** [*Cf.* Dkts. 174, 176.]

[The Notice continues on the following page.]

PLEASE TAKE FURTHER NOTICE that, in the absence of any timely written opposition served as set forth above, the Court may approve the proposed Order granting the Motion and approving (i) the Receiver's Distribution Plan; (ii) the Determination of Allowed User Claims; (iii) Notice of Distribution Plan; and (iv) Authority to Pursue Causes of Action.

Dated: New York, New York
August 9, 2024

OTTERBOURG P.C.

By: /s/ Jennifer S. Feeney
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*Attorneys for David A. Castleman, as
Receiver*

CERTIFICATE OF SERVICE

I hereby certify that on August 9, 2024, I electronically filed the Receiver's Notice of Motion and Motion for entry of an Order approving (i) the Receiver's Distribution Plan; (ii) the Determination of Allowed User Claims; (iii) Notice of Distribution Plan; and (iv) Authority to Pursue Causes of Action (the "**Motion**"); Memorandum of Law in Support of the Motion; the Affidavit of David A. Castleman as Receiver dated August 9, 2024, to which the Distribution Plan is annexed as an exhibit, and the Proposed Order granting the Motion, with the Clerk of the Court using the Court's CM/ECF system, which shall send notice to all counsel of record. I also served, or caused to be served, copies of the foregoing (1) on Defendant Eddy Alexandre by U.S. mail to Eddy Alexandre, Reg. No. 00712-51, FCC Allenwood-Low, P.O. Box 1000, White Deer, PA 17887; (2) on Users of EminiFX, Inc. by email directly to each User and by posting on the EminiFX Receivership Website; (3) on nonparty Clarelle Dieuveuil by U.S. mail [Peckar & Abramson, P.C., 1325 6th Ave., 10th floor, New York, NY 10019] and email [BWaller@pecklaw.com] to her counsel, Brian D. Waller; and (4) on all other non-settled claimants and governmental authorities, as appropriate, including but not limited to the Internal Revenue Service, by U.S. mail.

Dated: New York, New York
August 9, 2024

/s/ Jennifer S. Feeney
Jennifer S. Feeney